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10/524,677	01/29/2007	John Robert Norton-Baker	PRO101	1469

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EXAMINER	
CARTER, CANDICE D	
ART UNIT	PAPER NUMBER
3629	

NOTIFICATION DATE	DELIVERY MODE
12/28/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOmail@beyerlaw.com

Office Action Summary	Application No.	Applicant(s)	
	10/524,677	NORTON-BAKER ET AL.	
	Examiner	Art Unit	
	CANDICE D. CARTER	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 13-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 13-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 November 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/9/2009, 2/20/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is a First Action Non-Final on the merits. Claims 1-49, as originally filed, are currently pending and have been considered below.

Objections

2. Claims 25, 39, and 46-49 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend upon another multiple dependent claim. In addition, Claims 46 and 48 depend from "any one of claims 13-26 *and* 45". It is unclear if Applicant intends for these claims to be dependent upon claims 45 *and* any one of claims 13-26 or if they are to be dependent upon claims 45 *or* any one of claims 13-26. The Examiner requests clarification with respect to claims 46 and 48. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10, 13-26, and 48 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10 and 13-26 are system claims that appear to only recite method steps with no associated structure. It is unclear whether or not the Applicant intends for these claims to be method claims or apparatus claims. The Examiner requests clarification with respect to these claims.

Claim 48 is directed towards a computer program element comprising computer program code means to make a programmable device execute the system of any one of claims 13-26 and 45. With regard to it's dependency on any one of claims 13-26, it is unclear what the computer program code means is doing since its statutory status is not clearly stated.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 27-49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-44 are directed towards methods for creating a web based tour for an item.

Examiner contends that a process must be (1) tied to another statutory class (such as a particular machine) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.

An applicant may show that a process claim satisfies 35 U.S.C. § 101 either by showing that his claim is tied to a particular machine, or by showing that his claim transforms an article. See Benson, 409 U.S. at 70. Certain considerations are applicable to analysis under either branch. First, the use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent eligibility. See Benson, 409 U.S. at 71-72. Second, the involvement of the

machine or transformation in the claimed process must not merely be insignificant extra-solution activity. See Flook, 437 U.S. at 590. *In re Bilski.*

In the instant case, the methods recited are not tied to a particular machine in such a way that the machine is involved in the significant steps of the method and, as such, are not considered statutory method claims.

Claims 46-47 are directed towards computer readable mediums, encoded with data representing a computer program, which can be used to direct a programmable device to perform the systems and methods. The specification is virtually silent as to what, exactly, the medium is. Therefore, broadest reasonable interpretation of this term is a signal. A signal is not a statutory form of computer readable media.

Claim 45 is directed towards a system for creating a web based tour, the system including a receiver and a tour creation element. The receiver and tour creation element are not recited as having corresponding structure and given their broadest reasonable interpretation can be construed as nothing more than program code. Therefore, the claims are directed to nothing more than program code per se and are non-statutory.

Claims 48-49 are directed towards computer program elements comprising a computer program code means to make a programmable device execute the systems and methods. The Examiner interprets the computer program element and computer program code means to be a computer program and computer readable medium. The specification is virtually silent as to what, exactly, the medium/means is. Therefore,

broadest reasonable interpretation of this term is a signal. A signal is not a statutory form of computer readable media.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 41-45 are rejected under 35 U.S.C. 102(a) as being anticipated by Schileru-key (2002/0093541, hereafter Schileru).

As per claim 41, Schileru discloses a method for creating a web based tour, the tour having at least one image and at least one reference icon, each icon to be associated with at least one of said image, the method including the step of:

receiving user input indicating the position of the at least one icon on a first image and an association between said icon and at least one further image of said images wherein the position of the each icon on the first image provides information about the respective associated further image (¶ 27 discloses a map view [image] displaying an interactive map of an environment including hotspots, where each hotspot is an icon with associated data which may include images, that are displayed when a hotspot is activated as disclosed in ¶ 33; see also ¶ 28 and 29; and ¶ 50 discloses a user defining a hot spot area on a region of interest in the main view window which causes a drawing of a hotspot icon at a corresponding location on the map, where the user specifies data to be associated with the hotspot including images, video sequences, etc).

As per claim 42, Schileru discloses configuring the tour to display the at least one icon on the first image, at the position indicated by the user input (see, at least, ¶ 33, 50, 69 and Fig. 13).

As per claim 43, Schileru discloses displaying the tour with the at least one icon displayed on the first image, at the position indicated by the user input (see, at least, ¶ 33, 50, 69 and Fig. 13).

As per claim 44, Schileru discloses the configuring step includes providing a link between each reference icon and its associated further image (at least, ¶ 33, 50, 69, 70, and Fig. 14 and 16 disclose hotspots providing a linkage to the data associated with the hotspot).

As per claim 45, Schileru discloses a system for creating a web based tour, the tour having at least one image and at least one reference icon, each icon to be associated with at least one image, the system including:

a receiver to receive user input indicting the position of the at least one icon on first image and an association between said icon and at least one further image of said images wherein the position of the each icon on the first image provides information about a respective associated further image (¶ 27 discloses a map view [image] displaying an interactive map of an environment including hotspots, where each hotspot is an icon with associated data which may include images, that are displayed when a hotspot is activated as disclosed in ¶ 33; see also ¶ 28 and 29; and ¶ 50 discloses a user defining a hot spot area on a region of interest in the main view window which causes a drawing of a hotspot icon at a corresponding location on the map, where the

user specifies data to be associated with the hotspot including images, video sequences, etc);

and a tour creation element to create a web based tour configured to display the at least one icon on the first image, at the position indicated by the user input (¶ 43-56 describe the process for creating the model [tour] including the steps involving the addition of the hotspots on the model, ¶ 58 discloses initiating the playback of the model where the program draws and displays the model including the hotspot representation).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1-4, 6-10, 13-16, 18-22, 23/13-16, 23/18-22, 24/13-16, 24/18-22, 26-30, 32-36, 37/32-36, 38/27-31, 38/32-36, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morse (6,839,880) in view of Schileru-key (2002/0093541, hereafter Schileru).

As per claims 1, 13, and 27, Morse discloses a system and method for creating a web based tour for an item of interest including the steps of:

establishing a tour identity (col. 16, line 25-63 discloses storing a tour identification number, tour title, and other information pertaining to the tour including an address or an area of town);

associating one or more reference images with the tour identity (col. 18, line 3-51 discloses uploading photographs to be included in the virtual tour).

Morse, however, fails to explicitly disclose positioning one or more reference icons on one or more of said reference images, each of said reference icons being associated with a further reference image; and wherein a position of each of said reference icons is selected to provide information relating to said further reference image.

Schileru discloses a graph based visual navigation through spatial environments that positions one or more reference icons on one or more of said reference images, each of said reference icons being associated with a further reference image (¶ 27 discloses a map view [image] displaying an interactive map of an environment including hotspots, where each hotspot is an icon with associated data which may include images, that are displayed when a hotspot is activated as disclosed in ¶ 33; see also ¶ 28 and 29);

and wherein a position of each of said reference icons is selected to provide information relating to said further reference image (¶ 50 discloses defining a hotspot area and specifying data to be associated with the hotspot).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include positioning one or more reference icons on one or more of said reference images, each of said reference icons being associated with a further reference image; and wherein a position of each of said reference icons is selected to provide information

relating to said further reference image as taught by Schileru since such would represent points of interest that would enable users to access auxiliary data about the spatial environment (see ¶ 28 and abstract).

As per claims 2, 14, and 28, Morse discloses said tour identity optionally has associated therewith a tour description (col. 16, line 44-col. 17, line 9 discloses information boxes and fields where a user may input a description of the property).

As per claims 3, 15, and 29, Morse discloses each of said reference images optionally has an associated image description (Fig. 36B and col. 18, line 8-16 discloses providing information relating to the images).

As per claims 4, 16, and 30, Morse discloses a reference image and a respective associated image description collectively form a page and wherein said tour consists of a plurality of pages collected together as a list of pages (Fig. 57 and col. 22, line 1-11 discloses a collection of pages accessed by tabs showing a photograph and accompanying data).

As per claims 6, 18, and 32, Morse discloses reference images are stored on one or more remote host servers (see col. 8, line 60, col. 9, line 33-48, and col. 16, line 1-3).

As per claims 7, 19, and 33, Morse discloses at least one of said reference images is a map (col. 17, line 10-20 discloses a map link which provides a map of the area and a location of the property unit on the map).

As per claims 8, 20, and 34, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose at least one of said reference images is a plan.

Schileru discloses that a reference image is a floor plan (see ¶ 58).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include a floor plan reference image as taught by Schileru since such would serve to represent the physical environment of the property (see ¶ 58).

As per claims 9, 21, and 35, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose each of said reference icons serves to provide information regarding said further reference image associated therewith.

Schileru discloses reference icons serves to provide information regarding said further reference image associated therewith (¶ 33 discloses each hotspot is an icon with associated data which may include images, that are displayed when a hotspot is activated; see also ¶ 28 and 29).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include reference icons providing information regarding said further reference image associated therewith as taught by Schileru since such enable users to access auxiliary data about points of interest within the spatial environment (see ¶ 28 and abstract).

As per claims 10, 22, and 36, Morse discloses said item of interest is real estate (see at least the abstract).

As per claims 23/13-16, 23/18-22, 37/27-31, and 37/33-36, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose receiving user input indicating the position of the at least one icon on the at least one reference image,

and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input.

Schileru discloses receiving user input indicating the position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input (¶ 50 discloses a user defining a hot spot area on a region of interest in the main view window which causes a drawing of a hotspot icon at a corresponding location on the map, where the user specifies data to be associated with the hotspot including images, video sequences, etc as disclosed in ¶ 33).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include receiving user input indicating the position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input as taught by Schileru in order to provide a linkage between an area of a navigation frame and any associated information (see ¶ 33).

As per claims 24/13-16, 24/18-22, 38/27-31, and 38/33-36, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose displaying to the user the at least one reference image, allowing the user to subsequently provide the user input whilst viewing the at least one reference image (see ¶ 50, 33, and Fig. 21).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to

include displaying to the user the at least one reference image, allowing the user to subsequently provide the user input whilst viewing the at least one reference image as taught by Schileru since such would facilitate providing a linkage between an area of a navigation frame and any associated information (see ¶ 33).

As per claims 26 and 40, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose the at least one reference icon is positioned on the map, at least one of the associated further images relates to the item of interest, and the position of the reference icon indicates the position of the item of interest on the map.

Schileru discloses the at least one reference icon is positioned on the map, at least one of the associated further images relates to the item of interest, and the position of the reference icon indicates the position of the item of interest on the map (¶ 50 discloses a user defining a hot spot area on a region of interest in the main view window which causes a drawing of a hotspot icon at a corresponding location on the map, where the user specifies data to be associated with the hotspot including images, video sequences, etc as disclosed in ¶ 33).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include receiving user input indicating the position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user

input as taught by Schileru in order to provide a linkage between an area of a navigation frame and any associated information (see ¶ 33).

11. Claims 5, 17, 23/17, 24/17, 31, 37/31, and 38/31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morse in view of Schileru and further in view of Strasnick et al. (5,555,354).

As per claims 5, 17, and 31, Morse discloses each page is prepared according to a template (col. 14, line 12-19 and col. 16, line 4-23 disclosing using a template to input data to compose a data set, and to upload photos).

Morse, however, fails to explicitly disclose that the template is selected from a number of predetermined template styles.

Strasnick discloses a method and apparatus for navigations with a three-dimensional landscape using templates selected from a number of predetermined template styles (col. 22, line 1-50 discloses providing templates for mapping data into common structural forms).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of the Morse and Schileru combination to include a number of predetermined template styles as taught by in order to facilitate enabling users to easily transform large volumes of tabular data into a visual presentation of information manifesting both structure and context (see col. 22, line 2-4).

As per claims 23/17 and 37/31, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose receiving user input indicating the

position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input.

Schileru discloses receiving user input indicating the position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input (¶ 50 discloses a user defining a hot spot area on a region of interest in the main view window which causes a drawing of a hotspot icon at a corresponding location on the map, where the user specifies data to be associated with the hotspot including images, video sequences, etc as disclosed in ¶ 33).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include receiving user input indicating the position of the at least one icon on the at least one reference image, and indicating an association between each icon and the further reference image, and wherein each reference icon is positioned in response to the user input as taught by Schileru in order to provide a linkage between an area of a navigation frame and any associated information (see ¶ 33).

As per claims 24/17 and 38/31, Morse discloses all of the elements of the claimed invention but fails to explicitly disclose displaying to the user the at least one reference image, allowing the user to subsequently provide the user input whilst viewing the at least one reference image (see ¶ 50, 33, and Fig. 21).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the electronic property viewing of Morse to include displaying to the user the at least one reference image, allowing the user to subsequently provide the user input whilst viewing the at least one reference image as taught by Schileru since such would facilitate providing a linkage between an area of a navigation frame and any associated information (see ¶ 33).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDICE D. CARTER whose telephone number is (571) 270-5105. The examiner can normally be reached on Monday- Thursday 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571)272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Candice D Carter/
Examiner, Art Unit 3629